

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division

COMMONWEALTH OF)	
VIRGINIA A/S/O BRYAN HINES,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.
)	
JUSTIN DANIEL WEST,)	(formerly case No. GV20000442
)	Prince Edward General District Court)
Defendant.)	
_____)	

NOTICE OF REMOVAL OF STATE COURT ACTION
TO UNITED STATES DISTRICT COURT

TO: Mrs. Danelle W. Bagley, Clerk
Prince Edward General District Court
111 South Street, Courthouse Building
P.O. Box 41
Farmville, VA 23901

Scott Fitzgerald, Esq.
Office of the Virginia Attorney General
202 N. 9th Street
Richmond, VA 23219

Pursuant to Title 28, Section 1446 of the United States Code, you are hereby notified that a Notice of Removal as required by § 1446 has this day been filed in the United States District Court for the Eastern District of Virginia (Richmond Division). The undersigned has also filed a copy of the Notice with the Clerk of the Prince Edward General District Court.

It is further stated to the Court that a true copy of the Warrant in Debt, the only state court papers in the possession of defendant is attached hereto as Exhibit 1. No other process, pleading or order has been served upon the defendant.

The Warrant in Debt filed in the above-described action attempts to assert a personal injury claim arising out of a motor vehicle accident. Plaintiff has asserted this claim against Justin Daniel West, formerly a Rural Carrier Associate with the United States Postal Service, and seeks to recover \$15,000.00 in compensatory damages, plus interest and costs. At all times relevant to plaintiff's claim, defendant Justin Daniel West was acting within the scope and course of his federal employment with the United States Postal Service.

Removal of this action is based upon 28 U.S.C. § 1442, which authorizes the United States to remove civil actions filed in state court against the United States, its officers, or its agencies. Actions brought in a state court asserted against “the United States or any agency thereof or any officer (or any person acting under that officer) of the United States or of any agency thereof, for or relating to any act under color of such office” “may be removed by them to the district court of the United States for the district and division embracing the place wherein [the action] is pending.” 28 U.S.C. § 1442(a)(1).

Alternatively, defendant Justin Daniel West is entitled to remove this action pursuant to 28 U.S.C. § 2679(d)(2) to federal court, as he has been certified to have been acting within the scope of his office or employment at the time of the incident out of which the claim arose, and the actions “shall be deemed an action against the United States under the provision of the [Federal Tort Claims Act].” 28 U.S.C. § 2679(d)(2). United States Attorney G. Zachary Terwilliger's certification under that statute and 28 C.F.R. § 15.4 that Justin Daniel West was acting within the course and scope of employment with his agency with respect to the conduct that forms the basis for the plaintiff's warrant in debt is attached as Exhibit 2. Upon certification that the employee was acting within the scope of her office or employment at the time of the

incident out of which the claim arose, “any civil action or proceeding commenced upon such claim in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States for the district and division embracing the place in which the action or proceeding is pending.” 28 U.S.C. § 2679(d)(2).

The procedure for this removal is governed by 28 U.S.C. § 1446. Pursuant to 28 U.S.C. § 1446(d), after the filing of the notice of removal of the civil action, providing notice thereof to all adverse parties, and the filing of a copy of the notice with the Clerk of the State court, “the State court shall proceed no further unless and until the case is remanded.”

Dated: December 9, 2020

Respectfully submitted,

G. ZACHARY TERWILLIGER
UNITED STATES ATTORNEY

By: /s/ Jonathan H. Hambrick
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CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that service of the foregoing has been made this 9th day of December, 2020, by first class mail to:

To: Mrs. Danelle W. Bagley, Clerk
Prince Edward General District Court
111 South Street, Courthouse Building
P.O. Box 41
Farmville, VA 23901

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202 N. 9th Street
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